

UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA
WESTERN DIVISION

Tioga RV & Trailer Park, Inc.)
Plaintiff,) Civil No.:
vs.)
Nautilus Insurance Company,)
Defendant)

NOTICE OF REMOVAL OF ACTION

TO: THE CLERK OF THE ABOVE COURT, PLAINTIFF, AND THEIR COUNSEL OF RECORD, ZACHARY PELHAM, PEARCE & DURICK, P.O. BOX 400, BISMARCK, ND 58502-0400:

COMES NOW the defendant, Nautilus Insurance Company (“Nautilus”), by its attorney, Michael J. Morley of the Morley Law Firm, Ltd., Grand Forks, North Dakota, and pursuant to 28 U.S.C. §§ 1441(b), 1332 and 1446, hereby files this Notice of Removal of the above-captioned action from the State District Court of Williams County, North Dakota, where the action is now pending, to the United States District Court for the District of North Dakota, Western Division.

In support of this Notice of Removal, Nautilus states as follows:

1. That Nautilus is a defendant in a civil action brought against it by Tioga RV and Trailer Park, Inc., (“Tioga”), presently pending in the State District Court, State of North Dakota, County of Williams, North Dakota. A copy of the Summons and Complaint that was served upon Nautilus in this action, are filed in connection herewith.
2. That this action was commenced against Nautilus, on or after April 19, 2017, via service upon Nautilus through the North Dakota Insurance Department, as shown by the

Admission of Service signed by the North Dakota Insurance Department dated April 19, 2017, and the forwarding of the process to Nautilus, by the North Dakota Insurance Department dated April 20, 2017, which documents are attached and filed herewith.

3. As alleged in Tioga's Complaint, Tioga is a corporation organized under the laws of North Dakota with its principal place of business in North Dakota.

4. As further alleged in Tioga's Complaint, Nautilus is an insurance company organized under the laws of Arizona with its principal place of business in Arizona.

5. Tioga's Complaint alleges that Nautilus breached a contract of insurance issued to Tioga, and, in doing so, acted in bad faith and engaged in "unfair and deceptive insurance acts and practices."

6. Specifically, Tioga's Complaint alleges that Nautilus wrongfully denied coverage in an underlying lawsuit that "alleged, generally, that Tioga had converted twelve recreational vehicles, causing damages in excess of \$200,000."

7. Accordingly, the amount in controversy in this lawsuit is "in excess of \$200,000."

8. Consequently, diversity jurisdiction lies in this Federal District Court pursuant 28 U.S.C. §1332(a)(1), and, therefore, this action may be removed pursuant to 28 U.S.C. §1441(a).

9. This Notice of Removal is filed within thirty (30) days of the defendant's receipt of service of the Complaint, and is therefore timely filed pursuant to 28 U.S.C. §1446(b).

10. Written notice of the filing of this Notice of Removal will be given promptly to all adverse parties, and a copy of this Notice of Removal will be forwarded to and submitted for filing with the Clerk of the Northwest Judicial District of Williams County, North Dakota, as required by 28 U.S.C. §1446.

11. That this is a civil action brought in the State Court of North Dakota, of which the United States District Courts of North Dakota have original jurisdiction because of diversity of citizenship and amount in controversy.

12. By filing this Notice of Removal, Nautilus does not waive any defense that may be available to it.

WHEREFORE, the Defendant, Nautilus Insurance Company, respectfully removes this case to the United States District Court for the District of North Dakota, Western Division.

DATED this 8th day of May, 2017.

/s/ Michael J. Morley

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